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Chapter No. 312
18/SS26/R749
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SENATE BILL NO. 2311

Originated in Senate

LizWelch

Secretary

SENATE BILL NO. 2311

AN ACT TO AMEND SECTIONS 83-11-1, 83-11-7, 83-5-28, 71-3-77 AND 83-11-101, MISSISSIPPI CODE OF 1972, TO PROVIDE THAT A NOTICE OF NONRENEWAL IS NOT REQUIRED WHEN A REPLACEMENT POLICY FORM IS ISSUED BY THE SAME INSURER OR WHEN AN INSURED IS TRANSFERRED TO A LICENSED AFFILIATE OF THE INSURER, SO LONG AS THE TRANSFER OR REPLACEMENT RESULTS IN THE SAME OR SUBSTANTIALLY SIMILAR COVERAGE; TO PROVIDE THAT DOCUMENTS SIGNED BY THE INSURED ARE APPLICABLE TO THE REPLACEMENT POLICY FORM, THE COVERAGE TRANSFERRED TO A LICENSED AFFILIATE INSURER, OR BOTH, AND REMAIN VALID AND ENFORCEABLE; TO REQUIRE A TRANSFERRING INSURER TO PROVIDE NOTICE OF THE POLICY TRANSFER TO THE MISSISSIPPI INSURANCE DEPARTMENT AND TO THE POLICYHOLDER; AND FOR RELATED PURPOSES.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MISSISSIPPI:

SECTION 1. Section 83-11-1, Mississippi Code of 1972, is amended as follows:

83-11-1. As used in this article:

(a) "Policy" means an automobile liability, automobile physical damage, or automobile collision policy, or any combination thereof, delivered or issued for delivery in this state, insuring a single individual, or husband and wife resident of the same household, as named insured and under which the

insured vehicles therein designated are of the following types only:

(* * *i) A motor vehicle of the private passenger or station wagon type that is not used as a public or livery conveyance for passengers, nor rented to others; or

(* * *ii) Any other four-wheel motor vehicle with a load capacity of fifteen hundred (1500) pounds or less which is not used in the occupation, profession, or business of the insured; provided, however, that this article shall not apply * * * 1. to any policy issued under an automobile assigned risk plan, * * * 2. to any policy insuring more than four (4) automobiles, or * * * 3. to any policy covering garage, automobile sales agency, repair shop, service station, or public parking place operation hazards.

(b) "Automobile liability coverage" includes only coverage of bodily injury and property damage liability, medical payments, and uninsured motorist coverage.

(c) "Automobile physical damage coverage" includes all coverage of loss or damage to an automobile insured under the policy except loss or damage resulting from collision or upset.

(d) "Automobile collision coverage" includes all coverage of loss or damage to an automobile insured under the policy resulting from collision or upset.

(e) "Renewal" or "to renew" means the issuance and delivery by an insurer of a policy providing the same or

substantially similar coverage replacing at the end of the policy period a policy previously issued and delivered by the same insurer or a licensed affiliate, or the issuance and delivery of a certificate of notice extending the term of a policy beyond its policy period or term; provided, however, that any policy with a policy period or term of less than six (6) months shall for the purpose of this article be considered as if written for a policy period or term of six (6) months. Any policy written for a term longer than one (1) year or any policy with no fixed expiration date shall, for the purpose of this article, be considered as if written for successive policy periods or terms of one (1) year; and such policy may be terminated at the expiration of any annual period upon giving thirty (30) days' notice of cancellation prior to such anniversary date. Such cancellation shall not be subject to any other provisions of this article.

(f) "Nonpayment of premium" means failure of the named insured to discharge when due any of his obligations in connection with the payment of premiums on a policy, or any installment of such premium, whether the premium is payable directly to the insurer or its agents or indirectly under any premium finance plan or extension of credit.

(g) "Affiliate transfer" is when an insurer transfers, at renewal or policy expiration, its personal or commercial lines insurance policies to an affiliated licensed insurer that is a member of the same insurance group or same holding company as the

transferring insurer. The issuance of a replacement policy form providing the same or substantially similar coverage issued by the same insurer, or the transfer of personal or commercial insurance policies to a licensed affiliate insurer that will issue the same or substantially similar policy, are considered a renewal and will not be treated as a cancellation or nonrenewal. The affiliate transfer must be to a licensed affiliate insurer that has been determined by the commissioner to have the same or better financial strength as the transferring insurer. The policy transfer must be selected on a nondiscriminatory basis.

(h) "Substantially similar" means a policy that provides the same basic coverages but may add, alter or eliminate incidental coverages and may provide coverages using different textual language.

SECTION 2. Section 83-11-7, Mississippi Code of 1972, is amended as follows:

83-11-7. No insurer shall fail to renew a policy unless it shall mail or deliver to the named insured, at the address shown in the policy and to the named creditor loss payee, at least thirty (30) days' advance notice of its intention not to renew. This section shall not apply if there is no named creditor loss payee and:

(a) If the insurer has manifested its willingness to renew, subject to certain specified conditions which are not met by the insured; nor

(b) If the insured has manifested its unwillingness to renew; nor

(c) In case of nonpayment of premium; nor

(d) In case of failure to make timely payment of dues to, or to maintain membership in good standing with, a designated association, corporation or other organization where the original issue of such policy or renewal was dependent upon such membership; provided that, notwithstanding the failure of an insurer to comply with this section, the policy shall terminate on the effective date of any other insurance policy with respect to any automobile designated in both policies.

A notice of nonrenewal is not required when a replacement policy form is issued by the same insurer or when an insured is transferred to a licensed affiliate of the insurer, so long as the transfer or replacement results in the same or substantially similar coverage. Whenever a replacement policy form is issued by the same insurer, or when transfer of an insured to a licensed affiliate occurs documents signed by the insured are applicable to the replacement policy form, the coverage transferred to a licensed affiliate insurer, or both, and remain valid and enforceable.

Whenever a replacement policy form providing the same or substantially similar coverage is issued by the same insurer, or by a licensed affiliate insurer, such insurer shall mail or deliver to the policyholder, at least thirty (30) days in advance

of the effective date of renewal, written notice of any terms or conditions that are less favorable to the policyholder.

A transferring insurer shall notify the Mississippi Insurance Department at least forty-five (45) days in advance of notifying a policyholder that its personal or commercial lines insurance policies will be transferred to another licensed insurer within the same insurance group or same holding company. The notice shall include the name of insurer transferring the personal or commercial lines policies and the name and financial rating of the insurer receiving the transferred personal or commercial lines policies.

A transferring insurer shall provide the policyholder written notice of the policy transfer at least thirty (30) days prior to expiration of the policy term and shall include the financial rating of the insurer receiving the transferred policy. Such notice must be provided to the policyholder with the notice of renewal premium at least thirty (30) days before the effective date of the transfer.

Renewal of a policy shall not constitute a waiver or estoppel with respect to grounds for cancellation which existed before the effective date of such renewal, and if a policy shall be cancelled as authorized by this article prior to such policy's renewal, such cancellation shall terminate any right of renewal conferred by this article.

SECTION 3. Section 83-5-28, Mississippi Code of 1972, is amended as follows:

83-5-28. (1) A cancellation, reduction in coverage or nonrenewal of liability insurance coverage, fire insurance coverage or single premium multiperil insurance coverage is not effective as to any coverage issued or renewed after June 30, 1989, unless notice is mailed or delivered to the insured and to any named creditor loss payee by the insurer not less than thirty (30) days prior to the effective date of such cancellation, reduction or nonrenewal. This section shall not apply to nonpayment of premium unless there is a named creditor loss payee, in which case at least ten (10) days' notice is required. The cancellation and nonrenewal notice requirements of this section shall not apply when a replacement policy form is issued by the same insurer or when a transfer of an insured to a licensed affiliate of the insurer occurs, so long as the replacement of policy forms or transfer results in the same or substantially similar coverage and the insurer mails or delivers to the insured at least thirty (30) days prior to the renewal effective date notice of any term or condition that is less favorable to the policyholder.

(2) The provisions of subsection (1) shall be incorporated into each liability, fire and multiperil policy issued or renewed after June 30, 1989; and if such provisions are not expressly

stated in the policy, such provisions shall be deemed to be incorporated in the policy.

(3) Whenever a replacement policy form is issued by the same insurer or when transfer of an insured to a licensed affiliate occurs, documents signed by the insured are applicable to the replacement policy form, the coverage transferred to a licensed affiliate insurer, or both, and remain valid and enforceable.

(4) A transferring insurer shall notify the Mississippi Insurance Department at least forty-five (45) days in advance of notifying a policyholder that its personal or commercial lines insurance policies will be transferred to another licensed insurer within the same insurance group or same holding company. The notice shall include the name of insurer transferring the personal or commercial lines policies and the name and financial rating of the insurer receiving the transferred personal or commercial lines policies.

(5) A transferring insurer shall provide the policyholder written notice of the policy transfer at least thirty (30) days prior to expiration of the policy term and shall include the financial rating of the insurer receiving the transferred policy. Such notice must be provided to the policyholder with the notice of renewal premium at least thirty (30) days before the effective date of the transfer.

(6) As used in this section:

(a) "Affiliate transfer" is when an insurer transfers, at renewal or policy expiration, its personal or commercial lines insurance policies to an affiliated licensed insurer that is a member of the same insurance group or same holding company as the transferring insurer. The issuance of a replacement policy form providing the same or substantially similar coverage issued by the same insurer, or the transfer of personal or commercial insurance policies to a licensed affiliate insurer that will issue the same or substantially similar policy, are considered a renewal and will not be treated as a cancellation or nonrenewal. The affiliate transfer must be to a licensed affiliate insurer that has been determined by the commissioner to have the same or better financial strength as the transferring insurer. The policy transfer must be selected on a nondiscriminatory basis.

(b) "Substantially similar" means a policy that provides the same basic coverages but may add, alter or eliminate incidental coverages and may provide coverages using different textual language.

SECTION 4. Section 71-3-77, Mississippi Code of 1972, is amended as follows:

71-3-77. (1) Every contract for the insurance of the compensation herein provided, or against liability therefor, shall be deemed to be made subject to the provisions of this chapter, and provisions thereof inconsistent with this chapter shall be void. Such contract shall be allowed to offer deductibles on all

liability of the assured under and according to the provisions of this chapter, notwithstanding any agreement of the parties to the contrary. However, the payments of the claims, including the deductible amounts, shall be made directly from the insurance company to the employee, except for medical benefits which shall be paid to the medical provider. A copy of such payments shall be forwarded to the employer. The insurance company shall collect the deductible from the employer as shall be provided in the contract between the employer and the insurer. No such policy shall be subject to nonrenewal, or cancelled by the insurer within the policy period, until a notice in writing shall be given to the commission and to the insured, fixing the date on which it is proposed to cancel it or declaring that the company does not intend to renew the policy upon expiration date. Notice to the insured shall be served personally or by registered or certified mail. Notice to the commission shall be provided in such manner and on such form as the commission may prescribe or direct. No such cancellation or nonrenewal shall be effective until thirty (30) days after the service of such notice on the insured and the provision of notice to the commission, unless the employer has obtained other insurance coverage, in which case such policy shall be deemed cancelled as of the effective date of such other insurance, whether or not such notice has been given. The notice requirements of this section shall not apply when a replacement policy form providing the same or substantially similar coverage

is issued by the same insurer, or when transfer of an insured to a licensed affiliate providing the same or substantially similar coverage occurs. Whenever a replacement policy form providing the same or substantially similar coverage is issued by the same insurer, or when a transfer of an insured to a licensed affiliate of the insurer providing the same or substantially similar coverage occurs, documents signed by the insured are applicable to the replacement policy and to coverage being transferred, and remain valid and enforceable.

The insured may also cancel such a policy on the day that the insured either (a) returns the policy to the agent, or (b) signs and delivers to the agent a "lost policy release." If the insured desires to cancel a policy before the policy has become effective, he may cancel the policy by written notice of cancellation to the agent or company without return of the policy or a release.

Whenever a replacement policy form providing the same or substantially similar coverage is issued by the same insurer, or by a licensed affiliate insurer, such insurer shall mail or deliver to the policyholder, at least thirty (30) days in advance of the effective date of renewal, written notice of any terms or conditions that are less favorable to the policyholder.

A transferring insurer shall notify the Mississippi Insurance Department and the Mississippi Workers' Compensation Commission at least forty-five (45) days in advance of notifying a policyholder that its personal or commercial lines insurance policies will be

transferred to another licensed insurer within the same insurance group or same holding company. The notice shall include the name of insurer transferring the personal or commercial lines policies and the name and financial rating of the insurer receiving the transferred personal or commercial lines policies.

A transferring insurer shall provide the policyholder written notice of the policy transfer at least thirty (30) days prior to expiration of the policy term and shall include the financial rating of the insurer receiving the transferred policy. Such notice must be provided to the policyholder with the notice of renewal premium at least thirty (30) days before the effective date of the transfer.

(2) In any case where the employer is not a self-insurer, in order that the liability for compensation imposed by this chapter may be most effectively discharged by the employer and in order that the administration of this chapter in respect of such liability may be facilitated, the commission shall by regulation provide for the discharge, by the carrier or carriers for such employer, of such obligations and duties of the employer in respect of such liability imposed by this chapter upon the employer as it considers proper in order to effectuate the provisions of this chapter. For such purpose (a) notice to or knowledge of an employer of the occurrence of the injury shall be notice to or knowledge of the carrier or carriers; (b) jurisdiction of the employer by the commission or any court under

this chapter shall be jurisdiction of the carrier or carriers; and
(c) any requirement by the commission or any court under any compensation order, finding, or decision shall be binding upon the carrier or carriers in the same manner and to the same extent as upon the employer.

(3) As used in this section:

(a) "Affiliate transfer" is when an insurer transfers, at renewal or policy expiration, its personal or commercial lines insurance policies to an affiliated licensed insurer that is a member of the same insurance group or same holding company as the transferring insurer. The issuance of a replacement policy form providing the same or substantially similar coverage issued by the same insurer, or the transfer of personal or commercial insurance policies to a licensed affiliate insurer that will issue the same or substantially similar policy, are considered a renewal and will not be treated as a cancellation or nonrenewal. The affiliate transfer must be to a licensed affiliate insurer that has been determined by the commissioner to have the same or better financial strength as the transferring insurer. The policy transfer must be selected on a nondiscriminatory basis.

(b) "Substantially similar" means a policy that provides the same basic coverages but may add, alter or eliminate incidental coverages and may provide coverages using different textual language.

SECTION 5. Section 83-11-101, Mississippi Code of 1972, is amended as follows:

83-11-101. (1) No automobile liability insurance policy or contract shall be issued or delivered after January 1, 1967, unless it contains an endorsement or provisions undertaking to pay the insured all sums which he shall be legally entitled to recover as damages for bodily injury or death from the owner or operator of an uninsured motor vehicle, within limits which shall be no less than those set forth in the Mississippi Motor Vehicle Safety Responsibility Law, as amended, under provisions approved by the Commissioner of Insurance; however, at the option of the insured, the uninsured motorist limits may be increased to limits not to exceed those provided in the policy of bodily injury liability insurance of the insured or such lesser limits as the insured elects to carry over the minimum requirement set forth by this section. The coverage herein required shall not be applicable where any insured named in the policy shall reject the coverage in writing and provided further, that unless the named insured requests such coverage in writing, such coverage need not be provided in any renewal policy, any replacement policy with the same or substantially similar terms and conditions issued by the same insurer, and any transferred policy with the same or substantially similar terms and conditions issued by a licensed affiliate of the original insurer where the named insured had rejected the coverage in connection with a policy previously

issued to him by the same insurer or a licensed affiliate of the original insurer in the same holding company.

(2) No automobile liability insurance policy or contract shall be issued or delivered after January 1, 1980, unless it contains an endorsement or provisions undertaking to pay the insured all sums which he shall be legally entitled to recover as damages for property damage from the owner or operator of an uninsured motor vehicle, within limits which shall be no less than those set forth in the Mississippi Motor Vehicle Safety Responsibility Law, as amended, under provisions approved by the Commissioner of Insurance; however, at the option of the insured, the uninsured motorist limits may be increased to limits not to exceed those provided in the policy of property damage liability insurance of the insured or such lesser limits as the insured elects to carry over the minimum requirement set forth by this section. The coverage herein required shall not be applicable where any insured named in the policy shall reject the coverage in writing and provided further, that unless the named insured requests such coverage in writing, such coverage need not be provided in any renewal policy, any replacement policy with the same or substantially similar terms and conditions issued by the same insurer, and any transferred policy with the same or substantially similar terms and conditions issued by a licensed affiliate of the original insurer where the named insured had rejected the coverage in connection with a policy previously

issued to him by the same insurer or a licensed affiliate of the original insurer in the same holding company.

The property damage provision may provide an exclusion for the first Two Hundred Dollars (\$200.00) of such property damage; however, the uninsured motorist provision need not insure any liability for property damage, for which loss the policyholder has been compensated by insurance or otherwise.

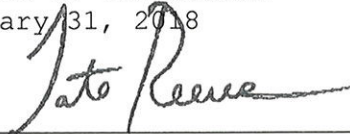
(3) The insured may reject the property damage liability insurance coverage required by subsection (2) and retain the bodily injury liability insurance coverage required by subsection (1), but if the insured rejects the bodily injury liability coverage he may not retain the property damage liability coverage. No insured may have property damage liability insurance coverage under this section unless he also has bodily injury liability insurance coverage under this section.

(4) In the course of the sale or issuance of any automobile liability insurance policy, insurers shall inform the named insured or applicant, on a form approved by the Department of Insurance, of the benefits of and reasons for electing to purchase uninsured motorist coverage. If the insured named in the policy wishes to reject uninsured motorist coverage, such form shall be signed by or on behalf of the named insured. If this form is signed by or on behalf of the named insured, it is binding upon all persons insured by the automobile liability insurance policy

and it shall be presumed that there was an informed, knowing rejection and waiver of uninsured motorist coverage.

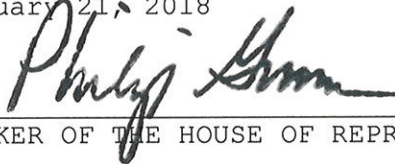
SECTION 6. This act shall take effect and be in force from and after July 1, 2018.

PASSED BY THE SENATE
January 31, 2018



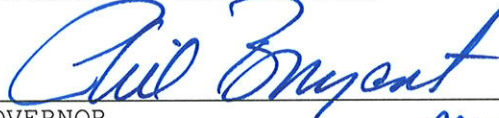
PRESIDENT OF THE SENATE

PASSED BY THE HOUSE OF REPRESENTATIVES
February 21, 2018



SPEAKER OF THE HOUSE OF REPRESENTATIVES

APPROVED BY THE GOVERNOR



GOVERNOR

March 5, 2018
11:50am